S.B.Civil Second Appeal No.144/2007.

LRs. of late Shri Mohd. Hussain.

vs.

Bhanwar Lal and others.

Date : 10.5.2007

HON'BLE MR. PRAKASH TATIA, J.

Mr.Farzand Ali, for the appellant.
Mr.Sanjay Nahar, for the respondent no.1.

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Heard learned counsel for the parties.

Learned counsel for the appellant submitted that the court below has committed error of law by decreeing the suit against the tenant while passing the decree in suit for redemption of mortgage filed by the plaintiff against the mortgagee.

The Courts below granted decree for redemption of mortgaged property and the contention of the landlord is that the appellant was never tenant with the consent of the mortgagor and, therefore, the first appellate court rightly decreed the suit of the plaintiff against the tenant.

Learned counsel for the respondent no.1/caveator pointed out that the decree has been executed and the possession has been taken by the mortgagor from the mortgagee's tenant.

In view of the finding of fact recorded by the court below that the tenant was not in occupation of the suit premises with the consent of the mortgagor, I do not find any illegality in the judgment and decree of the first appellate court.

In view of the above, I do not find any substantial question of law involved in this appeal.

Consequently, this second appeal, having no merit, is hereby dismissed.

(PRAKASH TATIA), J.

S.Phophaliya